

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-021

Introduced by Council Member Zermeño

RESOLUTION RESCINDING RESOLUTION 03-089
AND ESTABLISHING AFFORDABLE HOUSING
IMPACT FEES

WHEREAS, to assure that future housing development mitigates its impact on the need for affordable housing in the City of Hayward (the "City") by contributing to the production of residential units in the City that are affordable to very low, low- and moderate-income households, the City Council has considered and introduced on this same date an ordinance to amend the Affordable Housing Ordinance (Chapter 10, Article 17 of the City's Municipal Code) (the "Affordable Housing Ordinance"); and

WHEREAS, the Affordable Housing Ordinance authorizes the imposition of affordable housing impact fees on for-sale and rental residential developments to mitigate the impact of such developments on the need for affordable housing in the City; and

WHEREAS, to ensure that the affordable housing impact fees adopted by this resolution do not exceed the actual affordable housing impacts attributable to the development projects on which the fee is imposed, the City Council has received and considered a report from David Paul Rosen & Associates dated October 28, 2014 and entitled "City of Hayward Inclusionary Housing and Nexus Study," which includes, among other information, an affordability gap analysis, a residential nexus analysis, and an economic impact analysis (the "DRA Study"); and

WHEREAS, the DRA Study demonstrates that, to fully mitigate the burdens created by residential development on the need for extremely low, very low, low, median, and moderate-income housing, an affordable housing impact fee of \$40.98 to \$47.89 per square foot of new market rate residential development would be needed; and

WHEREAS, the City Council now desires to rescind the Affordable Housing In-Lieu Fees previously adopted under Section 10-17.500 of the City's Municipal Code and to adopt affordable housing impact fees for residential developments as authorized by the Affordable Housing Ordinance, which fees do not exceed the justified fees needed to mitigate the actual affordable housing impacts attributable to the development on which the fees are imposed; and

WHEREAS, to ensure that development projects remain economically feasible, the affordable housing impact fees adopted by this resolution are lower than the amount found by the DRA Study to be needed to fully mitigate the burdens created by new development on the need for affordable housing; and

WHEREAS, at least ten days prior to the date this resolution is being heard, data was made available to the public indicating the amount of cost, or estimated cost, required to provide the service for which the fee or service charge is levied and the revenue sources anticipated to provide the service, including general fund revenues, in accordance with Government Code Section 66019; and

WHEREAS, at least fourteen days prior to the date this resolution is being heard, notice was provided to any persons or organizations who had requested notice, in accordance with Government Code Section 66019; and

WHEREAS, notice of the hearing on the proposed fee was published twice in the manner set forth in Government Code Section 6062a as required by Government Code Sections 66004 and 66018; and

WHEREAS, the City Council has reviewed the information contained in this Resolution and the accompanying staff report and attachments thereto at a meeting held on January 27, 2015.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAYWARD THAT:

Section 1. The City Council finds as follows:

- A. The foregoing recitals are true and correct and incorporated into this resolution by this reference.
- B. The purpose of the affordable housing impact fee is to mitigate the burdens created by new residential and nonresidential development projects on the need for extremely low, very low, low, median, and moderate-income housing.
- C. In compliance with the Affordable Housing Ordinance, all affordable housing impact fees collected shall be deposited into the City's Affordable Housing Trust Fund to be used solely to increase and preserve the supply of housing affordable to households of extremely low, very low, low, median, and moderate incomes (including reasonable administrative costs).

- D. After considering the DRA Study, the testimony received at the public hearing, and the evidence in the record, the City Council accepts the DRA Study, and incorporates the findings of the DRA Study into this resolution, and further finds that new residential development and nonresidential development will create a need for affordable housing by:
1. Aggravating the existing shortage of affordable housing by reducing the supply of land for affordable housing and increasing the price of remaining land.
 2. Increasing local employment at extremely low, very low, low, median, and moderate-income wage levels, which increases the demand for and exacerbates the shortage of housing available to persons at those income levels.
- E. There is a need in the City for housing affordable to households of extremely low, very low, low, median, and moderate incomes.
- F. The facts and substantial evidence in the record establish that there is a reasonable relationship between the need for affordable housing and the impacts of the development described in the DRA Study for which the corresponding fee is charged, and there is also a reasonable relationship between the fee's use and the type of development for which the fee is charged, as is described in more detail in the DRA Study.
- G. The DRA Study sets forth cost estimates that are reasonable for constructing affordable housing, and the fees expected to be generated by new development will not exceed these costs.
- H. Adoption of this resolution is exempt from the California Environmental Quality Act because the adoption of this resolution is not a project, in that it is a government funding mechanism which does not involve any commitment to any specific project. (CEQA Guidelines Section 15378(b) (4).)

Section 2. The City Council hereby rescinds and removes the In-Lieu Fee established by Resolution No. 03-089.

Section 3. The City Council hereby adopts the following affordable housing impact fees:

1. Ownership Residential Projects – 20 Units or More
 - a. Detached Dwelling Units \$4.00/Square Foot of Habitable Space*

- b. Attached Dwelling Units \$3.24/Square Foot of Habitable Space*
- 2. Rental Residential Projects – 20 units or More
 - a. Projects Receiving All Discretionary Approvals Prior to Dec. 31, 2015 and All Building Permits Prior to Dec. 31, 2017 No fee
 - b. All Other Projects \$3.24/Square Foot of Habitable Space*

*Notes: Affordable housing impact fees shall be paid either prior to issuance of a building permit or prior to approval of a final inspection or issuance of an occupancy permit. Fees paid at occupancy shall be increased 10 percent, to \$4.40/sq. ft. of habitable space for attached dwelling units and to \$3.56/sq. ft. of habitable space for attached dwelling units and rental residential projects.

"Habitable Space" means floor area within a dwelling unit designed, used, or intended to be used exclusively for living and sleeping purposes and exclusive of vent shafts, eaves, overhangs, atriums, covered entries and courts and any portion of a structure above ground used for parking, parking aisles, loading areas, or accessory uses.

Section 4. The City Council may review and amend the affordable housing impact fee from time to time. Beginning January 1, 2016, for any annual period during which the City Council does not review the affordable housing impact fee, fee amounts shall be adjusted once by the City Manager or designee based on the percentage change in the three-year trailing median home price in the City.

Section 5. An affordable housing impact fee shall be paid by all developments subject to the fee, as shown in Section 3.

Section 6. This Resolution shall go into full force and effect on April 1, 2015, but only if the Affordable Housing Ordinance is effective prior to that date.

Section 7. Any judicial action or proceeding to attack, review, set aside, void or annul this resolution shall be brought within the 90-day time period as established by Code of Civil Procedure Section 1094.6.

IN COUNCIL, HAYWARD, CALIFORNIA January 27, 2015

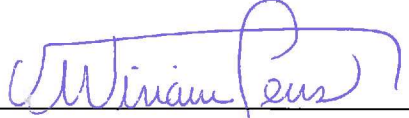
ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS: Zermeño, Mendall, Jones, Peixoto, Lamnin, Márquez
MAYOR: Halliday

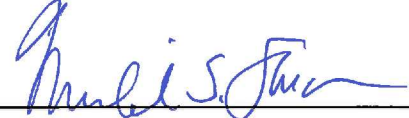
NOES: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ATTEST: 
City Clerk of the City of Hayward

APPROVED AS TO FORM:


City Attorney of the City of Hayward